



## Senate

General Assembly

**File No. 559**

January Session, 2011

Substitute Senate Bill No. 415

*Senate, April 18, 2011*

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING STATE OVERSIGHT OVER HOOKAH LOUNGES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-342 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting  
4 or carrying of a lighted cigarette, cigar, pipe, water pipe, hookah or  
5 similar device.

6 (b) (1) Notwithstanding the provisions of section 31-40q, as  
7 amended by this act, no person shall smoke: (A) In any building or  
8 portion of a building owned and operated or leased and operated by  
9 the state or any political subdivision thereof; (B) in any area of a health  
10 care institution; (C) in any area of a retail food store; (D) in any  
11 restaurant; (E) in any area of an establishment with a permit issued for  
12 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-  
13 22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f,

14 in any area of an establishment with a permit for the sale of alcoholic  
15 liquor pursuant to section 30-23 issued after May 1, 2003, and, on and  
16 after April 1, 2004, in any area of an establishment with a permit issued  
17 for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or  
18 the bar area of a bowling establishment holding a permit pursuant to  
19 subsection (a) of section 30-37c; (F) within a school building while  
20 school is in session or student activities are being conducted; (G) in any  
21 passenger elevator, provided no person shall be arrested for violating  
22 this subsection unless there is posted in such elevator a sign which  
23 indicates that smoking is prohibited by state law; (H) in any dormitory  
24 in any public or private institution of higher education; [or] (I) on and  
25 after April 1, 2004, in any area of a dog race track or a facility equipped  
26 with screens for the simulcasting of off-track betting race programs or  
27 jai alai games; or (J) in any hookah lounge. For purposes of this  
28 subsection, "restaurant" means space, in a suitable and permanent  
29 building, kept, used, maintained, advertised and held out to the public  
30 to be a place where meals are regularly served to the public, and  
31 "hookah lounge" means space, in a suitable and permanent building,  
32 kept, used, maintained, advertised and held out to the public to be a  
33 place where hookahs or water pipes are regularly made available for  
34 use by the public.

35 (2) This section shall not apply to (A) correctional facilities; (B)  
36 designated smoking areas in psychiatric facilities; (C) public housing  
37 projects, as defined in subsection (b) of section 21a-278a; (D)  
38 classrooms where demonstration smoking is taking place as part of a  
39 medical or scientific experiment or lesson; (E) smoking rooms  
40 provided by employers for employees, pursuant to section 31-40q, as  
41 amended by this act; (F) notwithstanding the provisions of  
42 subparagraph (E) of subdivision (1) of this subsection, the outdoor  
43 portion of the premises of any permittee listed in subparagraph (E) of  
44 subdivision (1) of this subsection, provided, in the case of any seating  
45 area maintained for the service of food, at least seventy-five per cent of  
46 the outdoor seating capacity is an area in which smoking is prohibited  
47 and which is clearly designated with written signage as a nonsmoking  
48 area, except that any temporary seating area established for special

49 events and not used on a regular basis shall not be subject to the  
50 smoking prohibition or signage requirements of this subparagraph;  
51 [or] (G) any tobacco bar, provided no tobacco bar shall expand in size  
52 or change its location from its size or location as of December 31, 2002;  
53 or (H) any hookah lounge operating before December 31, 2010,  
54 provided such hookah lounge (i) may not expand in size or change its  
55 location from its size or location as of December 31, 2010, and (ii) shall  
56 comply with regulations established by the Commissioner of Public  
57 Health pursuant to subdivision (3) of this subsection. For purposes of  
58 this subdivision, "outdoor" means an area which has no roof or other  
59 ceiling enclosure, "tobacco bar" means an establishment with a permit  
60 for the sale of alcoholic liquor to consumers issued pursuant to chapter  
61 545 that, in the calendar year ending December 31, 2002, generated ten  
62 per cent or more of its total annual gross income from the on-site sale  
63 of tobacco products and the rental of on-site humidors, [and] "tobacco  
64 product" means any substance that contains tobacco, including, but not  
65 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco, and  
66 "operating" means leasing, renting or owning space, in a suitable and  
67 permanent building, that is open pursuant to a valid certificate of  
68 occupancy, used, maintained, advertised and held out to the public as  
69 a place where hookahs or water pipes are regularly made available for  
70 use by the public.

71 (3) Not later than July 1, 2013, the Commissioner of Public Health  
72 shall adopt regulations, in accordance with chapter 54, for the  
73 operation of hookah lounges in order to protect the health and safety  
74 of hookah lounge patrons.

75 (c) The operator of a hotel, motel or similar lodging may allow  
76 guests to smoke in not more than twenty-five per cent of the rooms  
77 offered as accommodations to guests.

78 (d) In each room, elevator, area or building in which smoking is  
79 prohibited by this section, the person in control of the premises shall  
80 post or cause to be posted in a conspicuous place signs stating that  
81 smoking is prohibited by state law. Such signs, except in elevators,

82 restaurants, establishments with permits to sell alcoholic liquor to  
83 consumers issued pursuant to chapter 545, hotels, motels or similar  
84 lodgings, and health care institutions, shall have letters at least four  
85 inches high with the principal strokes of letters not less than one-half  
86 inch wide.

87 (e) Any person found guilty of smoking in violation of this section,  
88 failure to post signs as required by this section or the unauthorized  
89 removal of such signs shall have committed an infraction.

90 (f) Nothing in this section shall be construed to require any smoking  
91 area in any building.

92 (g) The provisions of this section shall supersede and preempt the  
93 provisions of any municipal law or ordinance relative to smoking  
94 effective prior to, on or after October 1, 1993.

95 Sec. 2. Subsection (a) of section 31-40q of the general statutes is  
96 repealed and the following is substituted in lieu thereof (*Effective from*  
97 *passage*):

98 (a) As used in this section:

99 (1) "Person" means one or more individuals, partnerships,  
100 associations, corporations, limited liability companies, business trusts,  
101 legal representatives or any organized group of persons.

102 (2) "Employer" means a person engaged in business who has  
103 employees, including the state and any political subdivision thereof.

104 (3) "Employee" means any person engaged in service to an employer  
105 in the business of his employer.

106 (4) "Business facility" means a structurally enclosed location or  
107 portion thereof at which employees perform services for their  
108 employer. The term "business facility" does not include: (A) Facilities  
109 listed in subparagraph (A), (C), [or] (G) or (H) of subdivision (2) of  
110 subsection (b) of section 19a-342, as amended by this act; (B) any

111 establishment with a permit for the sale of alcoholic liquor pursuant to  
112 section 30-23 issued on or before May 1, 2003; or (C) for any business  
113 that is engaged in the testing or development of tobacco or tobacco  
114 products, the areas of such business designated for such testing or  
115 development. [; or (D) during the period from October 1, 2003, to April  
116 1, 2004, establishments with a permit issued for the sale of alcoholic  
117 liquor pursuant to section 30-22a or 30-26 or the bar area of a bowling  
118 establishment holding a permit pursuant to subsection (a) of section  
119 30-37c.]

120 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe  
121 or any other matter or substance which contains tobacco.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-342
Sec. 2	<i>from passage</i>	31-40q(a)

**Statement of Legislative Commissioners:**

For purposes of consistency, the phrase "as amended by this act" was inserted in sections 1(b)(1) and 1(b)(2)(E).

**PH**            *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill, which requires the Department of Public Health to adopt regulations related to the operation of hookah lounges, does not result in a fiscal impact to the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sSB 415****AN ACT CONCERNING STATE OVERSIGHT OVER HOOKAH LOUNGES.****SUMMARY:**

This bill prohibits smoking in hookah lounges, except for those in existence before December 31, 2010, under certain conditions. It (1) defines a “hookah lounge,” (2) redefines smoking to include water pipes and hookahs, and (3) requires the Department of Public Health (DPH) to adopt regulations on hookah lounges. It also makes technical changes.

EFFECTIVE DATE: Upon passage

**HOOKAH LOUNGES*****Definitions***

The bill defines “hookah lounge” as a space, in a suitable and permanent building, kept, used, maintained, advertised, and held out as a place where hookahs or water pipes are regularly made available to the public. It also redefines “smoke” or “smoking” as used in the state’s no smoking law to include the lighting or carrying of a water pipe or hookah.

***Hookah Lounges Currently Operating***

Under the bill, any hookah lounge operating before December 31, 2010, can continue to operate if (1) it does not expand its size or change location from that of December 31, 2010, and (2) complies with DPH regulations on hookah lounges. The bill defines “operating” as leasing, renting, or owning space, in a suitable and permanent building, open according to a valid certificate of occupancy, used, maintained, advertised, and held out as a place where hookahs or water pipes are regularly made available to the public.

**Regulations**

DPH must adopt regulations, by July 1, 2013, concerning the operation of hookah lounges to protect the health and safety of their patrons.

**BACKGROUND****Hookahs**

A “hookah” is a water pipe used to smoke “shisha,” a combination of tobacco and fruit or vegetable that is heated and the smoke is filtered through water. The hookah consists of a head, body, water bowl, and hose. The tobacco or shisha is heated usually using charcoal.

**Related Bill**

SB 948, favorably reported by the Public Health Committee on March 28, bans smoking in the workplace regardless of the number of employees in the business facility.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 19      Nay 9      (04/01/2011)